IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

Bail Appl..No. 3955 of 2007()

CRIME NO. 261/07 OF FORT KOCHI POLICE STATION
MP.1914/2007 of J.M.F.C.-I,KOCHI

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PETITIONER /IST ACCUSED

M.M.AYOOB,S/O.M.M.MOYDUNNI,
RESIDING AT THURUTHI COLONY VEEDU,
NO.C.C.II/1015,NEAR MINI MARKET,THURUTHY KARA
FORT KOCHI VILLAGE.

BY ADV. SRI.S.NIRMAL KUMAR

RESPONDENTS: COMPLAINANT

STATE REPRESENTED BY C.I. OF POLICE
FORT KOCHI POLICE STATION (CRIME NO.261/07)
REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT
OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 3955 of 2007

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Dated this the 2nd day of July, 2007

O R D E R

Application for regular bail. Petitioner is the first accused. He allegedly went to the house of the deceased with culpable intention to attack the brother of the deceased. The deceased intervened and tried to save his brother. At that time the petitioner planted the stab on the deceased. He succumbed to the injuries. The alleged incident took place on 6.5.2007. He continues in custody from 7.5.2007. It is the case of the prosecution that the petitioner is an employee of the second accused and there were bitter disputes, differences and acrimony between the second accused and the brother of the deceased. The petitioner, along with the second accused, had gone to the house of the defacto complainant allegedly with questionable and culpable motives. The second accused was arrested and released on bail as per Annex.A3 order dt 28.5.2007 by the learned Sessions Judge.

2. The learned counsel for the petitioner submits that the investigation has made much progress. The petitioner has remained

in custody from 7.5.2007. The alleged co-conspirator and the one, at whose instance the petitioner allegedly committed the crime, has already been enlarged on bail. In these circumstances it is prayed that the petitioner may also be enlarged on bail.

3. The learned Prosecutor opposes the application. He submits that the defacto complainant and his relatives are facing threat from the accused. He has already come to this Court with an application for affording police protection for him. In these circumstances the petitioner may not be enlarged on bail at this early stage of investigation. Grant of bail to the second accused may not be reckoned as a circumstance justifying grant of regular bail to the petitioner. The nature of involvement of the two accused are entirely different. At any rate, the Investigators may be granted some further time to complete the investigation, submits the Prosecutor.

4. I do not want to express any opinion on the correctness of the grant of regular bail to the second accused by the Sessions Judge as per Annex.A3. Suffice it to say, I am satisfied that the petitioner, who is alleged to have indulged in the overt acts which led to the death of the deceased, can or ought to be released on bail at this stage. In a serious

crime like this, the Investigators are entitled for reasonable further time to complete the investigation.

5. This application is, in these circumstance, dismissed. But I may hasten to observe that the petitioner shall be at liberty to move the learned Sessions Judge or this court for bail again at a later stage of the investigation, not at any rate, prior to 16.7.2007. The Investigators shall, in the meantime, make every endeavour to complete the investigation.

(R. BASANT)
Judge

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